

U.S. Serial No. 09/866,960

Filed: May 29, 2001

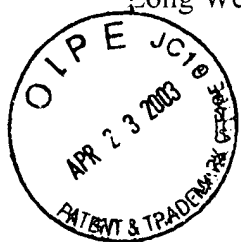
Scancarella, et al.

Long Wearing Emulsion Makeup Composition for Making up Eyes and Skin

RECEIVED

APR 25 2003

TECH CENTER 1600/2900



**DECLARATION OF JEAN MANELSKI : 37 C.F.R. 1.132**

I, Jean Manelski, co-inventor of the above mentioned application, hereby declare that:

1. I prepared the following compositions:

	C	T1	T2	T3	T4	T5	T6	T7	T8
	% BY WEIGHT								
PHASE A									
Petroleum distillates	QS	QS	QS	QS	QS	QS	QS	QS	QS
Quaternium-18 hectorite	4	4	4	4	4	4	4	12.3	4
Black Iron Oxide	7.5	--	--	3.5	3.5	--	--	7.5	7.5
Organic pigment water insoluble	--	--	7.5	4.0	--	4.0	--	--	--
PHASE B									
PVP/hexadecene copolymer	1.7	1.7	1.7	1.7	1.7	1.7	1.7	1.7	1.7
Polybutene	1.9	1.9	1.9	1.9	1.9	1.9	1.9	1.9	1.9
Beeswax	2.8	2.8	2.8	2.8	2.8	2.8	2.8	--	2.8
Carnauba wax	2.5	2.5	2.5	2.5	2.5	2.5	2.5	--	2.5
Paraffin wax	1.5	1.5	1.5	1.5	1.5	1.5	1.5	--	1.5
C18-36 acid triglycerides	1.5	1.5	1.5	1.5	1.5	1.5	1.5	--	1.5
Ethyl paraben	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15	0.15
Propyl paraben	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20	0.20
Zinc stearate	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5
Cetyl dimethicone copolyol	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5	0.5
Stearic acid	0.9	0.9	0.9	0.9	0.9	0.9	0.9	0.9	0.9
Propylene glycol	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Propylene carbonate	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5	1.5

VS-70	--	--	--	--	--	--	--	--	9.0
Polysilicone 6									
PHASE C									
Triethanolamine	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4
Water	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5	2.5
Black iron oxide	--	--	--	--	--	3.5	3.5	--	--
Organic pigment (water soluble)	--	7.5	--	--	4.0	--	4.0	--	--
PHASE D									
Ammonium acrylate copolymer <sup>1</sup>	9.0	9.0	9.0	9.0	9.0	9.0	9.0	9.0	--
PHASE E									
Panthenol	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2	0.2
Water	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0	1.0
Quaternium-15	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05
Trisodium EDTA	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1	0.1
PHASE F									
Phenoxyethanol	0.8	0.8	0.8	0.8	0.8	0.8	0.8	0.8	0.8

<sup>1</sup> Synran 5179 containing 41% by weight insoluble polymer solids from Interpolymer Corporation

The compositions were prepared by combining the Phase A ingredients and premixing for 30 minutes at room temperature with high shear. The Phase A premix was then heated to 80 to 90° C. with high shear. The wax Phase B ingredients were premixed and heated to 90° C. with slow stirring for one hour. The wax Phase B was added to the Phase A premix at 90° C. and mixed for 20 minutes with high shear and fast agitation. Separately the Phase C ingredients were heated to 80° C. and mixed well, then added to the mixture of Phase A and B ingredients. Mixing was continued with high shear. The mixture was cooled to 45° C. and the remaining

ingredients were added. The amount of petroleum distillates lost due to evaporation was added back.

The above compositions C and T1-T8 are defined as follows:

C: Example 1 of McDermott

T1: McDermott formula of Example 1 where iron oxides were removed and water soluble organic pigments added instead.

T2: McDermott formula of Example 1 where iron oxides were removed and water insoluble organic pigments were added instead.

T3: McDermott formula of Example 1 where a combination of iron oxide pigments and organic pigments were dispersed in the oil phase.

T4: McDermott formula of Example 1 where iron oxide pigments were dispersed in the oil phase and the organic pigments were dispersed in the water phase.

T5: McDermott formula of Example 1 where iron oxide pigments were dispersed in the water phase and the organic pigments were dispersed in the oil phase.

T6: McDermott formula of Example 1 where iron oxide pigments and organic pigments were dispersed in the water phase.

T7: McDermott formula of Example 1 without waxes and where the iron oxide pigments were dispersed in the oil phase.

T8: McDermott formula of Example 1 where the ammonium acrylates copolymer was removed and VS-70 or Polysilicone 6 was substituted in its place.

U.S. Serial No. 09/866,960

Filed: May 29, 2001

Scancarella, et al.

Long Wearing Emulsion Makeup Composition for Making up Eyes and Skin

Then the composition of Example 1 of the invention was prepared as follows:

Ingredient	% by weight
Dimethicone (1 centistoke)	20.57
Isododecane	23.85
VS-70 : Polysilicone 6	20.35
Dibutyl adipate	2.40
Silica	6.00
Quaternium-18 hectorite/isododecane/propylene carbonate (10:89:1)	18.00
Cetyl dimethicone copolyol	0.30
Water	5.00
FD&C Blue #1	1.44
FD&C Yellow #5	0.60
D&C Green #5	0.05
FD&C Red #40	1.44

A smudge resistance test was conducted by applying each of the compositions C, T1-T8, and those of the invention to false eyelashes. Several coats of each composition were applied to the lashes and allowed to dry on the lash for a minimum of 18 hours. Then each eyelash was submerged in a warm soap solution comprised of 1% of a 28% sodium laureth sulfate in water, and placed on a white sheet of paper. The lashes were gently rubbed once with a forefinger to assess smudging. The degree to which each of the compositions smudged onto the paper was visually assessed and photographs depicting the results are attached hereto as well as summarized below.

Composition C: slight smudging

Composition T1: noticeable smudging

Composition T2: noticeable smudging

Composition T3: pronounced smudging

Composition T4: pronounced smudging

Composition T5: noticeable smudging

Composition T6: pronounced smudging

Composition T7: definite smudging

Composition T8: very slight smudging

Invention composition: no smudging

The above results illustrate that the inventive compositions provided no smudging on the smudge test. In contrast, the McDermott compositions and all variations thereof, provided varying degrees of smudging, thus illustrating that the claimed compositions exhibit superiority over McDermott's compositions in resistance to smudging.

Next the compositions were applied to draw down cards and rubbed with tissue using a forefinger to assess film integrity and transfer resistance. The film integrity and transfer resistance were rated on a scale of 1 to 5 with 1 being best and 5 worse. The results are as follows:

Composition C: 3 slight color transfer, good film integrity

Composition T1: 3 slight color transfer, good film integrity

Composition T2: 4 appreciable color transfer, film exhibit cracked areas

Composition T3: 2.5 slight color transfer, good film integrity

Composition T4: 2 slight color transfer, good film integrity

Composition T5: 3.5 appreciable color transfer, good film integrity

Composition T6: 3.5 appreciable color transfer, good film integrity

Composition T7: 2 slight color transfer, good film integrity

~~A~~ Composition T8: 1.5 very slight color transfer, good film integrity

Inventive Composition: 2 slight color transfer, good film integrity

The above results show that the inventive composition exhibited a slight degree of color transfer, but exhibited superiority over all of the compositions except Composition T4 and T8 in transfer resistance.

2. CONCLUSION: The results show that compositions of the invention generally exhibit improved smudge resistance when compared with McDermott's compositions. Simply incorporated organic pigments into McDermott's formula does not provide commercially acceptable compositions. While the compositions of the invention are smudge resistant according to the tests conducted herein, the compositions do exhibit a slight degree of color transfer.

3. This declaration is made with the knowledge that willful false statements and the like are punishable by fine or imprisonment or both under 35 USC 1001, and may jeopardize the validity of the above identified patent application or patent issuing therefrom.

4/15/03  
Date

Jean Manelski  
Jean Manelski